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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,755	12/15/2000	Anthony Reid	12153RRUS01U	2083

7590

09/05/2003

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EXAMINER

LAMARRE, GUY J

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/738,755

Applicant(s)

REID ET AL.

Examiner

Guy J. Lamarre, P.E.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

### DETAILED ACTION

0. The Applicant's formal drawing submittal of 11 April 2001 and change of address of 15 Oct. 2002 have been entered.

0.1 Pursuant to 35 USC 131, **Claims 1-23** are presented for examination.

#### Specification

1. The disclosure is objected to as non-compliant with CFR 1.96(c) because the appendix exceeds 10 pages or 300 lines, and thus falls under Computer Program Listing Appendix on Compact Disc Requirement: The description portion of this application contains a computer program listing consisting of more than three hundred (300) lines.

1.1 The disclosure is also objected to because page 7 does not refer to Numeral 22 of Fig. 1. The specification shall be amended in accordingly.

#### Claim Objections

2. The listed claims are objected to because of the following informalities:

Claim 15 line 2 must recite after "comprising" **the steps of**. Additionally, it is unclear to the Examiner what "channel considerations" means in line 7.

Claim 18 line 9 must replace after "link of" [said] with **a**.

Appropriate correction is required.

#### Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.1 Claims 15-17 and 20-23 are rejected under 35 U.S.C. 101 as claiming a mathematical formula or algorithm. Applicant is advised to modify limitations of said claims as being incorporated or embedded in hardware or readable machine medium.

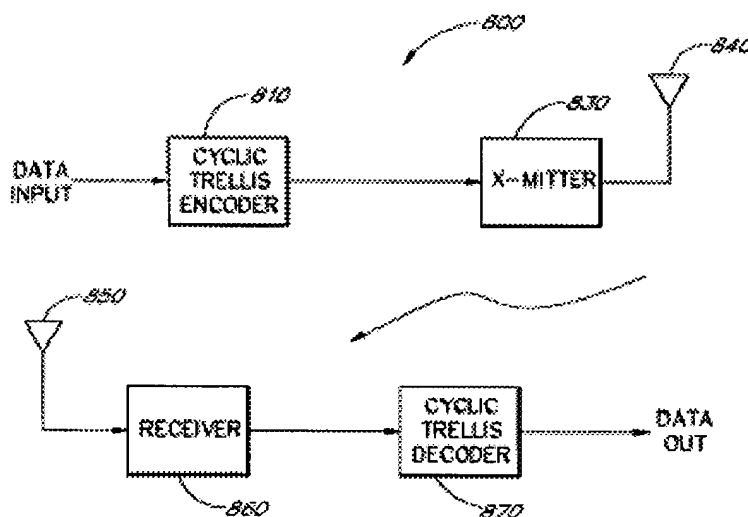
**Claim Rejections - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.1 Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by **Alamouti** (US Patent No. 5,784,417; issue date: 21 July 1998).



**FIG. 8**

As per Claims 1-23, **Alamouti** anticipates the claimed invention because Fig. 8 depicts trellis coder (numeral 810) and wireless transmitter (numeral 830) that mitigates channel fading (Figs. 11-13 and 17-18) via QAM (Figs. 1A-B) with means to digitize data into radio waves via antenna (numeral 840). **Alamouti** further discloses means, in col. 3 line 64, to maximize minimum Euclidean distance between points of the signal constellation, e.g., "... invention provides for a trellis encoder which trellis encodes input data signals, wherein the input data signals are mapped according to a modulation scheme such that a signal constellation defined by the modulation scheme cannot be set partitioned such that each level of set partitioning results in a substantially increased minimum Euclidean distance between points of the signal constellation."

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It is clear to those of ordinary skill in data communications how to implement **Alamouti's disclosure** in software or for a GPRS/EDGE network.

### **Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5.1 Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to:

(703) 746-7238, (for After-Final communications),

(703) 746-7239, (for formal communications intended for entry),

(703) 746-5463 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

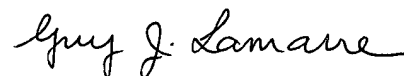
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (703) 305-0755. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached on (703) 305-9595.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Guy J. Lamarre, P.E



Patent Examiner

9/2/03

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